

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

<b>RICHARD MACOMB,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. 14-166-M</b>
	)	
<b>STATE FARM FIRE AND CASUALTY</b>	)	
<b>COMPANY,</b>	)	
	)	
<b>Defendant.</b>	)	

**NOTICE OF REMOVAL**

The Petitioner, State Farm Fire and Casualty Company ("State Farm"), Defendant in the above-captioned case, states the following:

1. The above-entitled cause was commenced in the District Court of Cleveland County, entitled Richard Macomb v. State Farm Fire and Casualty Company, Case No. CJ-2013-1100-L. Process was served upon State Farm by serving the Oklahoma Insurance Commissioner by certified mail on January 13, 2014. A copy of Plaintiff's Petition setting forth the claim for relief upon which the action is based is attached hereto and marked Exhibit "1". A copy of the Summons served upon State Farm is attached hereto and marked Exhibit "2".

2. In Plaintiff's Petition, he sought damages "in excess of \$10,000.00." Such a prayer is insufficient to establish an amount in controversy in is excess of \$75,000.00. *See Laughlin v. Kmart Corp.*, 50 F.3d 871, 873 (10<sup>th</sup> Cir. 1995). Thus, the case stated by the initial pleading was not removable. Pursuant to 28 U.S.C. § 1446(b)(C)(3), "if the case stated by the initial pleading is not removable, a notice of removal may be filed within 30 days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or have become removable." On February 11,

2014, counsel for State Farm received Plaintiff's Responses to Defendant's Requests for Admissions. In said responses, Plaintiff admits he seeks damages in excess of \$75,000.00. (*See* Richard MaComb's Responses to Defendant's First Requests for Admissions to Plaintiff, Exhibit "3").

3. State Farm's principal place of business is in the State of Illinois, and it is incorporated in the State of Illinois. Plaintiff is a citizen and resident of the State of Oklahoma. (*See* Plaintiff's Petition, p. 1, ¶ 1, Exhibit 1).

4. This Court has original jurisdiction over this case pursuant to 28 U.S.C. § 1332 (1992), by reason of the fact that this is a civil action wherein the amount in controversy, according to Plaintiffs' demands, exceeds Seventy-Five Thousand and No/100ths Dollars (\$75,000.00), exclusive of interest and costs and is between citizens of different states. Accordingly, this action may be removed by State Farm pursuant to 28 U.S.C. § 1441(a).

5. This Notice of Removal is filed in this Court within thirty (30) days after February 11, 2014, the date State Farm was served with a copy of Plaintiff's Responses to State Farm's Request's for Admissions, which first established Plaintiff seeks in excess of \$75,000.00. (*See* Exhibit "3").

6. Copies of all process, pleadings, and Orders served upon Defendant, State Farm, have been attached hereto as follows: Petition, Exhibit "1"; Summons, Exhibit "2"; Plaintiff's Responses to Defendant's Requests for Admissions, Exhibit "3"; Entry of Appearance, Exhibit "4"; Plaintiff's First Set of Interrogatories, Requests for Production of Documents, and Requests for Admission to Defendant, Exhibit "5." Pursuant to LcvR 81.2, a copy of the state court docket sheet is attached as Exhibit "6".

**WHEREFORE**, Defendant, State Farm Fire and Casualty Company, prays that this action

be removed.

Dated this 24<sup>th</sup> day of February, 2014.

Respectfully submitted,

**ATKINSON, HASKINS, NELLIS,  
BRITTINGHAM, GLADD & FIASCO**  
A PROFESSIONAL CORPORATION

/s/ John S. Gladd

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**Certificate of Service**

I hereby certify that on February 24, 2014, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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